

**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

DATE: June 30, 2009

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler
James Mitchell
Worrick Robinson

PRESENT: Staff Members:
Donna Hancock, Director
Terrance Bond, Staff Attorney
Judy Elmore, Administrative Assistant
Susan Lockhart, Executive Assistant

GUESTS:

CALL TO ORDER:

Chairman Howard called the meeting to order and the following business was transacted:

Director Donna Hancock called the roll.

ANNOUNCEMENT

There was no announcements.

ADOPT AGENDA

MOTION was made by Elizabeth Trinkler, seconded by Worrick Robinson, to adopt the meeting agenda as presented.

MOTION CARRIED

MINUTES

MOTION was made by Elizabeth Trinkler and seconded by James Mitchell to *approve the minutes of May 5, 2009 with correction as noted..*

MOTION CARRIED.

LEGAL REPORT---TERRANCE BOND, STAFF ATTORNEY**DISCLAIMER**

This Board is not responsible for the contents of the legal report. The report is compiled and presented to the Board by Assistant General Counsel, Terrance Bond.

Attorney Bond presented the Board with a Legislative report. He stated the definition had been changed defining a collection service and there was a housekeeping bill pertaining to the two (2) year revocation of a location manager license for failure to work as a full-time licensed collection service agent. Mr. Bond stated that he will keep the Board updated on changing Legislation.

COMPLAINT REPORT**1. 200801039-1**

Board approved settlement by payment of a \$500.00 civil penalty and signing of a Consent Order by the Respondent admitting to allegations that the Respondent was rude to the Complainant during a collection call. Respondent contends that the Complainant became upset when she learned the nature of the call and that the Respondent tried to cooperate with the Complainant to the best of its ability. Respondent disputes the State's proposed findings of fact.

Recommendation: Close with a letter of warning regarding professional conduct during a collection call.

BOARD: Approved

2. 200900550-1

Complainant alleges that Respondent made statements in its collection notices to her that she considered threatening and harassing. Complainant provided copies of three letters sent to her by the Respondent containing terms such as "our demand" and "it will be to your advantage", which she feels are inappropriate when contacting persons regarding their accounts. Complainant also states that Respondent should not be pursuing her for any past due amount, as the alleged past due account had already been "adjusted" by the creditor. Respondent states that it is aware of the adjustment, but that it was notified by its client that a balance remained despite the adjustment. Respondent states that it honored its client's request to return the account and remove all derogatory information concerning the account from the Complainant's credit report. With regard to the content of the letters it sent to the Complainant, Respondent states that it never received any correspondence from the Complainant, prior to its receipt of the complaint, indicating that the Complainant regarding their communications as harassing. Respondent also states that it has its letters reviewed for legal compliance by an industry-certified attorney prior to dispatch.

Recommendation: Close with no action.

BOARD: Motion was made by Worrick Robinson and seconded by James Mitchell to approve the recommendation of the Attorney with Elizabeth Trinkler rescuing herself.

3. 200900911-1

Complainant alleges that the Respondent was operating an unlicensed judgment recovery business. Complainant provided copies of solicitation letters sent by the Respondent to a would-be client. Respondent states that it was unaware that it was acting in violation of Tennessee law. Respondent also states that the business is closed as of April 2009.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$1,000.00 civil penalty.

BOARD: Approved.

4. 200900627-1

Complainants allege that the Respondent engaged in false credit reporting when it submitted reports indicating that the Complainants had made two late payments to the Respondent. Complainants also allege that the Respondent made improper use of escrow funds that the Complainants felt should have been returned to them. Respondent provided an account ledger showing that the Complainant's funds were received after the expected payment date. Respondent also provided a copy of the payment agreement with the Complainants, duly executed, which stated that in no event would funds held in a delinquent escrow account be remitted to the Complainants, but that such funds would be applied toward the account balance.

Recommendation: Close with no action.

BOARD: Approved.

5. 200900620-1

Complainant alleges that the Respondent failed to send him written confirmation of a settlement agreement that it reached with him regarding his past due account. According to the Complainant, the agent with whom he spoke advised him payment of settlement funds would prevent credit reporting with regard to the past due account or, if such reporting had already occurred, lead to the deletion of the account record from his credit report. The Respondent failed to reply to the complaint, despite accepting service of same on May 4, 2009.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$2,000.00 civil penalty.

BOARD: Approved.

6. 200900908-1

Complaint states that the Respondent, while acting as a first-party lender, erroneously assigned the consumer's account to a collection agency.

Recommendation: Close with no action.

BOARD: Approved.

7. 200900636-1

Complainant alleges that the Respondent is making harassing telephone calls to him and his wife and demands that the phone calls cease. The Respondent failed to answer the complaint, despite accepting service of same on May 4, 2009.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$1,000.00 civil penalty.

BOARD: Approved.

8. 200900910-1

Complainant alleges that Respondent continues calling her in pursuit of a debt that she does not owe, and states that the Respondent will not cease communicating with her about the debt. The Respondent failed to respond to the complaint, despite accepting service of same on May 28, 2009.

Recommendation: Authorize a formal hearing with authority to settle by Consent Order and payment of a \$1,000.00 civil penalty.

BOARD: Approved.

9. 200900625-1

Complainant states that Respondent, a debt management service, acted in violation of its agreement with her regarding payment of her past due accounts.

Recommendation: Close with no action.

BOARD: Approved.

10. 200900642-1

Complainant states that the Respondent failed to send documentation verifying its authority to collect a debt on behalf of the creditor. Complainant states that it entered into a payment agreement with the Respondent, but stipulated that he would only begin making remittances once the Respondent sent proof that it had been assigned the account. The Complainant provided a copy of what he alleges is the only document he has ever received from the Respondent, which appears to be a letter memorializing the payment agreement. The Respondent failed to respond to the complaint, despite accepting service of same on April 27, 2009.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$2,000.00 civil penalty.

BOARD: Approved

11. 200900776-1

Complainant alleges that the Respondent, who is unlicensed, attempted to collect an amount stemming from an insufficient funds check that the Complainant had allegedly written. The Complainant also alleges that the Respondent indicated he would contact the district attorney to obtain a warrant for the Complainant's arrest if the Complainant failed to cure the bad check. The Respondent failed to respond to the complaint, despite being served with notice of same on April 29, 2009.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$2,000.00 civil penalty.

BOARD: Approved.

12. 200900808-1

Complainant alleges that the Respondent failed to provide validation of his alleged debt after the Complainant sent a written request to the Respondent for such information. Complainant states that he discovered that the Respondent was pursuing him after he noticed the Respondent's entry on his credit report. Complainant also states that the Respondent engaged in unlicensed activity by dunning him while the agency license was expired; however, Department records show that the Respondent's "dba" was licensed at the time pertinent to the Complainant's complaint. The Respondent failed to respond to the complaint, despite accepting service of same on May 12, 2009.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$2,000.00 civil penalty.

BOARD: Approved.

13. 200900737-1

Complainant alleges that the Respondent contacted him and represented that it was affiliated with a child support enforcement agency in Arizona and was seeking to enforce his child support obligations, which were allegedly delinquent. Complainant states that he contacted governmental authorities in Arizona and verified that such an entity did not exist and was advised that the individuals contacting him were likely affiliated with a collection agency. Complainant states that during his conversation with the Respondent, who is unlicensed in Tennessee as of this date, Respondent threatened to file liens against his personal property, bank accounts and to garnish his wages. Respondent failed to respond to the complaint, despite accepting service of same on April 24, 2009.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$3,000.00 civil penalty.

BOARD: Approved.

14. 200802595-1

Complainant alleges that the Respondent made an unauthorized electronic debit from his checking account, causing him to sustain overdraft fees and that the Respondent has engaged in abusive and deceptive practices. Complainant states that at the beginning of Respondent's collection campaign,

Respondent's agent refused to identify himself or explicitly state that he was attempting to collect a debt. Complainant also states that Respondent stated that it would "make his phone ring all night" in response to the Complainant's request that the Respondent cease communication with him. Complainant states that Respondent's agent terminated a phone call with him after making such statement and then caused his phone to ring on six occasions during the same evening. Complainant states further that he gave the Respondent authority to initiate two drafts from his account—the first draft was authorized for September 30, 2008; the second draft was authorized for October 15, 2008. Complainant states that the first draft was successful, but the second draft did not occur as scheduled. Complainant states that on November 3, 2008, Respondent drafted funds from his account which were not authorized and were greater than the sum he had agreed to pay through the two authorized drafts. Complainant states that he has attempted to contact the Respondent at least four times subsequent to the unauthorized draft—in each instance Respondent told him that someone would contact him regarding his concerns but failed to follow through. Complainant states that he has filed a fraud claim with his financial institution regarding the unauthorized debit. Respondent failed to respond to the complaint, despite accepting service of same on December 3, 2008.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and civil penalty of \$5,000.00.
BOARD: Approved.

15. 200802593-1

Complainant alleges that the Respondent made harassing telephone calls to her concerning an individual that she does not know. Complainant states that on October 1, 2008, she received a telephone call from Respondent requesting to speak to the alleged debtor. Complainant states that she informed Respondent at that time that she was unfamiliar with the person requested. Complainant states that, despite her insistence that she did not know the person sought, Respondent continued to call her at least every two days requesting to speak to the alleged debtor. Complainant states that the calls continued until November 3, 2008. Respondent states that the Complainant's number was erroneously provided and that the number has now been marked "do not call". Respondent also states that it is "investigating" its employees conduct relative to the calls.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$500.00 civil penalty.
BOARD: Approved.

16. 200900481-1

Complainant states that he has informed the Respondent that the amount they are seeking to recover is a result of identity theft. Respondent states that it has accepted the Complainant's claim and that the collection account had been closed prior to its receipt of the Complainant's complaint.

Recommendation: Close.
BOARD: Approved.

17. 200900734-1

Complainant states that Respondent failed to send her documentation showing that her collection account was paid in full by personal check. Respondent provided account notes showing that a "paid in full" letter was mailed to the Complainant three days prior to the filing of the complaint, and stated that the Complainant was advised that it was company policy to wait seven days after posting a personal check before sending a "paid in full" letter.

Recommendation: Close.

BOARD: Approved.

18. 200900566-1

Complainant alleges the Respondent acted in violation of federal law by making unauthorized third party contact. Complainant states that the Respondent contacted his neighbor and requested that she "write down" certain information pertaining to his allegedly past due account, including the file number which the Respondent had assigned to the Complainant's account. Complainant also states that the neighbor was asked to place such written information in his mailbox, because, according to the Respondent, his phone was "disconnected". Complainant states that upon calling the Respondent concerning their alleged actions, the representative with whom he spoke denied all the allegations and stated that she would continue to call his neighbors. Respondent states that the Complainant's file is now closed and that it is investigating the Complainant's claims and will take disciplinary action against the culpable part(ies) if the allegations prove true.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$2,000.00 civil penalty.

BOARD: Approved.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to approve the final complaint report with the exception of Complaint number 200900550-1 as written in the minutes.

BOARD: Approved.

Attorney Bond presented the Board with a question from a consumer inquiring about a definition of accounts, bills, notes or other indebtedness. Mr. Bond stated he did not think there was a statutory definition pertaining to accounts, bills, notes or other indebtedness. The consensus of the Board was that the statute of the Collection Service Board was self explanatory pertaining to this issue.

Next was an item from Attorney Alan C. Lee requesting further clarification of the Board's February 2009 statement regarding debt buyers/judgment purchasers. Mr. Lee wanted to know if the filing of a lawsuit by a debt buyer in state court, in an attempt to collect a purchased debt, is considered active and if a collection service license would be required. Chairman Howard recused himself from the discussion and the vote and turned the meeting over to Vice Chairperson Elizabeth Trinkler.

MOTION was made by Worrick Robinson and seconded by James Mitchell that based on the information provided, the agency does not require a license.

MOTION CARRIED.

Attorney Bond then presented the Board with a report from Attorney Brian Ellis pertaining to the acceptance of a credit report for citizens of The Republic of India. After a brief discussion the Board failed to approve this form of credit background reporting.

MOTION: There was no motion to approve this request.

RECIPROCAL LICENSING

The next item was a request from an office manager requesting the Board to consider issuing a collection agency license by reciprocity. The Tennessee Collection Service Board does not have a reciprocal agreement with any state. After a brief discussion the Board failed to approve the request.

MOTION: There was no motion to approve this request.

ADMINISTRATIVE ISSUES---DIRECTOR, DONNA HANCOCK

Ms. Hancock presented the Board with a report of open complaints. She stated that there are 134 open complaints with 55 being older than 180 days.

AGENCY RENEWAL APPLICATION REVIEW

LOCATE SERVICES, LLC

The renewal application for Locate Services, LLC is being presented due to the financial statement. The financial statement reflects that the "total assets" do not exceed the "total liabilities". A certified letter was mailed on June 10, 2009 requesting an explanation as to why the "total assets" do not exceed the "total liabilities".

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to defer approval of the renewal application until September 15, 2009 and instructed staff to request an updated financial statement.

MOTION CARRIED.

WEST TENNESSEE COLLECTIONS, INC.

The renewal application for West Tennessee Collections, Inc. is being presented due to the financial statement. The financial statement reflects that the "total assets" do not exceed the "total liabilities". A certified letter was mailed on April 22, 2009 requesting an explanation as to why the "total assets" do not exceed the "total liabilities".

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to defer approval of the renewal application until September 15, 2009 and instructed staff to request an updated financial statement.

MOTION CARRIED.

CROSSLAND SERVICES, LLC

The renewal application for Crossland Services, LLC is being presented due to the financial statement. The financial statement reflects that the "total assets" do not exceed the "total liabilities". A certified

letter was mailed on March 23, 2009 requesting an explanation as to why the “total assets” do not exceed the “total liabilities”.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to defer approval of the renewal application until September 15, 2009 and instructed staff to request an updated financial statement.

MOTION CARRIED.

APPLICATION REVIEW—DETERMINE ELIGIBILITY FOR TESTING/LICENSING

JASON BURNETT

Mr. Burnett appeared before the Board at their meeting on May 5, 2009. The Board has requested Mr. Burnett to submit an updated credit report reflecting the derogatory entries on his previous report. Mr. Burnett submitted an amended credit report reflecting where he had paid one of the accounts.

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to request an updated credit report and gave Chairman Howard the authority to review this information so if the applicant is approved he is eligible to sit for the location manager exam on September 15, 2009.

MOTION CARRIED.

JENNIFER URLAUB

Ms. Urlaub’s application was presented to the Board for review of her credit report to determine her eligibility to take the Tennessee Location Manager examination. She also answered “no” to the question on the application; “Have you ever had accounts placed with an Attorney or Collection agency for collection:?”

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to request an updated credit report and explanation as to why she answered “no” to the above question and gave Chairman Howard the authority to review this new information. If the applicant is approved, she may sit for the location manager exam on September 15, 2009.

MOTION CARRIED

SURESH KUMAR

Mr. Kumar’s application was presented to the Board for review of the credit report. He submitted a letter from his bank in lieu of a credit report. India does not have credit reports.

MOTION request failed for lack of a motion.

JASON CHARLES WAKEFIELD

Mr. Wakefield’s application was presented to the Board for review, due to his credit report, to determine his eligibility to take the Tennessee Location Manager examination. He also answered “no” to the question on the application; “Have you ever had accounts placed with an Attorney or Collection agency for collection:?”

MOTION was made by Worrick Robinson and seconded by James Mitchell to request an updated credit report and an explanation as to why he answered “no” to the above question and gave Chairman

Howard the authority to review this new information. If the applicant is approved, he may take the location manager exam on September 15, 2009.

MOTION CARRIED

KEVIN SCOTT INCHES

Mr. Inches' application was presented to the Board for review, due to his credit report, to determine his eligibility to take the Tennessee Location Manager examination. He also answered "no" to the question on the application; "Have you ever had accounts placed with an Attorney or Collection agency for collection:?"

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to request an updated credit report and explanation as to why he answered "no" to the above question and gave Chairman Howard the authority to review this information. If the applicant is approved, he may take the location manager exam on September 15, 2009.

MOTION CARRIED

MATTHEW DAVID OSGOOD

Mr. Osgood's application was presented to the Board for review of his credit report to determine his eligibility to take the Tennessee Location Manager examination.

MOTION was made by Elizabeth Trinkler and seconded by James Mitchell to deny the application until such time applicant can provide proof that all outstanding collection items have been corrected.

MOTION CARRIED.

ANGELA ELAINE BRUNNER

Ms. Brunner's application was presented to the Board for review of her credit report to determine her eligibility to take the Tennessee Location Manager examination.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to deny the application but allow the applicant to reapply when she can provide proof that all outstanding collection items have been corrected.

MOTION CARRIED.

JENNE MARIE MATYAS

Ms. Matyas's application was presented to the Board for review of her credit report to determine her eligibility to take the Tennessee Location Manager examination.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to deny the application but allow the applicant to reapply when she can provide proof that all outstanding collection items have been corrected.

MOTION CARRIED.

JAMES MICHAEL O'CONNOR

Mr. O'Connor's application was presented to the Board for review due to his failure to submit the one hundred dollar (\$100.00) application fee with the application. The application was received on June 18, 2009 and the check was not received until June 29, 2009.

MOTION was made by Elizabeth Trinkler and seconded by James Mitchell to allow the applicant to take the location manager examination on September 18, 2009.

MOTION CARRIED

AAA COLLECTIONS & COUNSELING SERVICES, INC.

The renewal application for AAA Collection & Counseling Services, Inc. was presented previously due to the financial statement. The Board had requested that Mr. C. Earl Maddux of AAA Collections & Counseling Services, Inc. submit a new financial statement (current to the present date), along with any other items that he feels would assist the Board in evaluating the financial health of the business. Updated information was received, however, the Board did not find it sufficient.

MOTION was made by Worrick Robinson and seconded by James Mitchell to defer approval of the renewal application, request an updated financial statement and request Mr. Maddux to appear before the Board with the updated financial information at their next meeting. Elizabeth Trinkler recused herself.

MOTION CARRIED.

Director Hancock discussed with the Board the issuance of a solicitor cards. She stated that she recently found that other states are not issuing solicitor cards and it would save time and money if the Board did away with the practice. Mr. Bond stated that it was a statutory requirement to issue solicitor cards. The law would have to be changed to stop the practice.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

There was no New Business.

Bart Howard, Chairman

Shannon Polen

Elizabeth Trinkler, Vice Chairman

Worrick Robinson

James Mitchell